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5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**  
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8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 MICHAEL CHARLES COHEN,

12 Defendant.  
13

Case No. 2:09-CR-00005-KJD-PAL

**ORDER**

14 Before the Court is Defendant Michael Charles Cohen's ("Defendant") Motion for Early  
15 Termination of Supervised Release (#24). The Government has responded (#25).

16 **I. Background**

17 In February 2009, Defendant pled guilty to two counts of Bank Robbery. On May 20, 2009,  
18 the Court sentenced Defendant to 41 months imprisonment, three years of supervised release, and  
19 ordered Defendant to pay \$17,996.32 in restitution. Supervised release commenced on December 22,  
20 2011. Defendant has failed to comply with the terms of his supervision as indicated by a positive  
21 drug test in December of 2011, although Defendant has since complied with drug testing  
22 requirements and is now on random drug testing. Defendant further failed to make monthly  
23 restitution payments until February of 2013 (#25, Ex. A). Defendant asserts that he began making  
24 payments "[a]s soon as he was able to find a job." Defendant's supervising Probation Officer  
25 opposes early termination for the above reasons (#25, Ex. A). Defendant further asserts that he has  
26 "been living a law abiding life since his release from prison."

1 II. Analysis

2 The Court may terminate a term of supervised release “if it is satisfied that such action is  
3 warranted by the conduct of the defendant released and the interest of justice.” 18 U.S.C. §  
4 3583(e)(1). In making this determination, the Court is to consider the factors set forth in §§  
5 3553(a)(1), (a)(2)(B)-(D), (a)(4)-(7). These factors include: (1) the nature and circumstances of the  
6 offense and the history and characteristics of the defendant; (2) deterrence; (3) protection of the  
7 public; (4) the need to provide the defendant with educational, vocational training, medical care or  
8 other rehabilitation; (5) the sentence and sentencing range established for the category of defendant;  
9 (6) any pertinent policy statement by the Sentencing Commission; (7) the need to avoid unwarranted  
10 sentence disparities among defendants with similar records who have been found guilty of similar  
11 conduct; and (8) the need to provide restitution to any victims of the offense. United States v. Smith,  
12 219 F. App’x 666, 667 (9th Cir. 2007).

13 While the Court commends Defendant for his ongoing efforts, they fail to rise to the level of  
14 “exceptionally good behavior” which could render the term of supervised release “too harsh.” United  
15 States v. Miller, 205 F.3d 1098, 1101 (9th Cir. 2000). Considering the above factors, including  
16 restitution, and Defendant’s history of non-compliance, the Court is not satisfied that the conduct of  
17 the Defendant and the interest of justice warrant early termination.

18 III. Conclusion

19 Defendant’s Motion for Early Termination of Supervised Release (#24) is **HEREBY**  
20 **DENIED.**

21 DATED this 11th day of October 2013.

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25 Kent J. Dawson  
26 United States District Judge